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January 11, 2023

BY ECF AND EMAIL

The Honorable Andrew L. Carter, Jr.
United States District Judge
United States Courthouse
40 Foley Square, Room 435
New York, New York 10007

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Re: United States v. Robert Alexander, 19 Cr. 164 (ALC)

Dear Judge Carter:

I represent Robert Alexander in the above-referenced case, and am writing to request that the current dates in this case—1/13/23 for a joint status report and 2/15/23 for a *Fatico* hearing—be adjourned for a period of at least six months. This is Mr. Alexander's second request to adjourn these dates. He previously requested—and the Court granted—an adjournment in the summer of 2022 when Mr. Alexander was scheduled to have serious eye surgery that summer, including a cornea transplant, and where his doctors had indicated that Mr. Alexander needed six months to recover before he would be able to travel to Court without risking posing risks to the transplant.

Unfortunately, Mr. Alexander was unable to proceed with the surgery in the summer of 2022 or in the ensuing months due to further medical conditions. The surgery had initially been scheduled for July 11, 2022, but was moved to August 1, 2022. On July 31, however, the day before the surgery, Mr. Alexander tested positive for Covid-19, so the August 1 surgery had to be rescheduled for September 16, 2022. On September 8, 2022, however, the surgery was again put on hold by Mr. Alexander's doctors due to a recurrent and serious systemic MRSA infection, among other things (including congestive heart failure and abnormal kidney function). During the ensuing months, Mr. Alexander attended numerous doctors' appointments in an effort to treat the infection and other conditions, and has now recovered to the point that his doctors were able to reschedule the cornea transplant and other eye procedures (for cataracts) for February 6, 2023.

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Mr. Alexander remains eager to bring this case to a resolution, but in a manner that enables him to get treatment for his serious health conditions. In order to accommodate that new surgery date and Mr. Alexander's recovery period, we respectfully request that the Court adjourn the current dates for a period of at least six months.

The defense has spoken with the Government before filing this letter, and has been asked to include the following language on the Government's behalf, to avoid the need for separate letters:

The Government understands from the defendant that this is necessary surgery. However, the Government has concerns that this request is part of a pattern of deliberate delay, wherein (i) a surgery date is set that conflicts with the *Fatico* hearing; (ii) the Court adjourns the *Fatico* hearing to accommodate the surgery; (iii) the surgery is cancelled; (iv) the Court sets a new *Fatico* date; and then the parties begin again at (i).

The Government proposes the following, which it believes accommodates the defendant's medical needs as well as the need to proceed with the case. Should the surgery in fact take place on February 6, the *Fatico* hearing will be adjourned until August, as the defendant requests. But should the surgery not take place on February 6, the *Fatico* hearing should be set for early April and the defendant should be advised that the hearing will not be adjourned again, and that any surgery should be scheduled for after that date.

The defense appreciates the government's willingness to adjourn the *Fatico* hearing until August in the event surgery proceeds as scheduled on February 6. The defense contests the government's characterization of the matter as involving any "pattern of deliberate delay." The defense further disagrees with the government's proposal to set the hearing for April in the event surgery does not proceed on February 6. Rather, the Court could require simply that the parties provide a joint update the Court in mid-February. We appreciate the Court's attention to this matter.

Respectfully submitted,

/s

Brian A. Jacobs

cc: Assistant U.S. Attorney Margaret Graham (by ECF and Email)
Madalyn Toledo, U.S. Pretrial Services Office, Southern District of New York (by Email)

The application is **GRANTED**. A joint status report is due 7/13/23. The *Fatico* Hearing is adjourned to 8/9/23 at 10:00 a.m.

So Ordered.



1/12/23